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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/665,529	09/22/2003	Kohichi Yamauchi	1560-0397P	5921
2292 7590 06/04/2008 BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747				
EXAMINER DHINGRA, PAWANDEEP				
ART UNIT 2625		PAPER NUMBER		
NOTIFICATION DATE 06/04/2008		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/665,529

Applicant(s)

YAMAUCHI ET AL.

Examiner

PAWANDEEP S. DHINGRA

Art Unit

2625

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 14 April 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☒ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: Claim 8 is a newly added claim and has not been examined before, thus, would require further consideration and/or search. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-7.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Twyler L. Haskins/
Supervisory Patent Examiner, Art Unit 2625

/P. D./
Examiner, Art Unit 2625

Continuation of 11. does NOT place the application in condition for allowance because: applicant's arguments filed 4/14/2008 have been fully considered but they are not persuasive.

With respect to applicant's arguments, on page 6 that "By making the purported modification of the image forming device of Sasamoto, substantial reconstruction and redesign would need to take place. Further, by utilizing the method of displacement of the transportation belt disclosed in Hamada, the Examiner would be removing the switching device which switches, in stages, the opposing members to be separated from the belt. It is well known that if the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious".

In reply, the examiner asserts that modifying the device of Sasamoto to include the rotary fulcrum as taught by Hamada into the transfer unit of Sasamoto would not require any substantial reconstruction and/or redesign. The applicant mentions removing the switching device from the apparatus of Sasamoto in order to utilize the "method of displacement of the transportation belt" of Hamada. Examiner notes that there is no explicit mention of the switching device in the drawings or disclosure of the Sasamoto, so the examiner is uncertain exactly what part or device is applicant referring to as it need to be removed or replaced in order to utilize the functionality of rotary fulcrum of Hamada. In any case, applicant has not provided any other substantial reasoning as to how by modifying Sasamoto to include the rotary fulcrum of Hamada would change the principle of operation of the Sasamoto. Furthermore, examiner asserts, it is apparent that in order to combine any two devices together would require some modification or redesign, and as long as one with the ordinary skill in the art knows how to combine and modify two devices together in order to attain predictable results with some improvement is sufficient to establish a *prima facie* case of obviousness. Applicant's above statement does not provide sufficient evidence that it would require substantial redesign or reconstruction to combine the references and/or any evidence supporting the facts behind this conclusion.

Applicant further argues "Sasamoto discloses the image forming apparatus, which is provided with transfer belt 100, photoconductive elements 10B, 10Y, 10M and 10C, and supporting rollers 72-76 and 80. However, even if the image forming apparatus of Sasamoto was provided with a cam 10 of Hamada, the rotation of the cam 10 should not bring the movement of supporting rollers 72-76 and 80 to and from the photoconductive elements 10B, 10Y, 10M and 10C because the photoconductive elements and the supporting rollers are arranged to pinch the transfer belt 100".

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

However, drawing 1 of Hamada shows that for obtaining just the black color (Bk) and getting it developed, cam 10 is rotated and some tension could be further applied from cam 10's rotating movements therefore some pinching of the belt is being done. Moreover, Sasamoto teaches rotating the transfer unit in directions of moving to and from the image carriers (see column 12, line 58-column 13, line 57 and claim 7). In any case, applicant has not provided any evidence or substantial facts that how the pinching of the transfer belt affects the movement of the transfer unit to and from the image carriers.

Finally, it would have been obvious to one of ordinary skill in the art at the time the invention to modify the image forming apparatus as disclosed by Sasamoto to include the image forming apparatus (rotary fulcrum) as taught by Hamada Futoshi into the transfer unit of Sasamoto for the benefit of having less parts, and cost.